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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

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IN THE MATTER OF DETERMINING
Whether there has been a violation
of the Securities Act of the State
of Washington by:

MARIO CUCCOMARINO, FRANCESCO
MONTALTO; their employees and agents

Respondents.

SDO-079-02

SUMMARY ORDER TO CEASE AND DESIST
AND NOTICE OF INTENT TO ORDER FINES
AND AFFIRMATIVE RELIEF

Case No. 02-03-104

THE STATE OF WASHINGTON TO: Mario Cuccomarino
Francesco Montalto

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondents, Mario Cuccomarino and Francesco Montalto have each violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 against each of them to cease and desist from such violations. The Securities Administrator finds that delay in ordering the Respondents to cease and desist from such violations would be hazardous to the investors and to the public and that a Summary Order to Cease and Desist should be entered immediately. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

I. Respondents

1. Mario Cuccomarino is a former employee of Italia Imports & Exports in Seattle, Washington and resident of Seattle, Washington.

SUMMARY ORDER TO CEASE AND
DESIST

1 \$25,000 investment. Montalto also told the investor that he was to receive \$200 of that payment for a commission, so the
2 quarterly payment to the investor would be \$2,300. Montalto told the investor that her investment was personally
3 guaranteed by Cuccomarino and that she could have her entire principal returned if she gave ample warning that she
4 wanted her investment returned. Additionally, the investor received undated checks from Montalto, drawn on
5 Cuccomarino's bank account for the amount of the investment to substantiate that Cuccomarino personally guaranteed
6 the investment. Based upon the anticipated return on investment and the guarantee the investor gave Montalto a \$25,000
7 check. The investor started to receive her quarterly interest payments but that soon stopped. The investor then
8 demanded the return of her funds but to this date has not had her investment returned.

9 **Investor #3**

10 7. In December 1999 investor #3 was approached by Montalto to invest \$25,000 in the same olive oil
11 production investment. Investor #3 was told by Montalto that Cuccomarino purchased olives in Syria and shipped them
12 to Italy where the olives were processed into olive oil and then sold through Italia Imports in Seattle. Montalto told the
13 investor that Cuccomarino would make quarterly interest payments of \$2,500 on a \$25,000 investment. Montalto also
14 told the investor that he was to receive \$200 of that payment for a commission, so the quarterly payment to the investor
15 would be \$2,300. Montalto told the investor that her investment was personally guaranteed by Cuccomarino and that he
16 could have his entire principal returned if he gave ample warning that she wanted her investment returned. At the time
17 that Investor #3 was approached by Montalto Investor #2 was still receiving her interest payments. Because Investor #3
18 knew that Investor #2 was still receiving her interest payments, Investor #3 gave Montalto a \$25,000 check payable to
19 Cuccomarino. The investor subsequently received his first quarterly interest payment. In April 2000 the Investor #3 was
20 offered an opportunity to invest an additional \$25,000. Because Investor #3 had received his first interest payment and
21 investor #2 was still receiving interest payments, he gave Montalto a check for an additional \$25,000. The investor
22 stopped receiving interest payments soon after. The Investor #3 then demanded the return of his funds but has not had
23 his funds returned to date.

1 **Investor #4**

2 8. In October 2000 Investor #4 gave Cuccomarino \$20,000 towards the olive oil investment. Cuccomarino
3 told the investor that he would receive a return of 10% per month and that the investment would be returned in 30-35
4 days after investment. Cuccomarino did not explain to the investor how he would invest the money other than to say that
5 he would invest the funds in olive oil, that he had been doing it for years, that he learned of the investment from his uncle
6 and that he would personally guarantee the investment. Much like the other investors, Investor #4 received an undated
7 check in the amount of the investment drawn on Cuccomarino's bank account. When the investor attempted to negotiate
8 the check he learned that the account had been closed.

9 9. None of the investors ever received any offering materials regarding the investment opportunity.
10 Cuccomarino and Montalto never disclosed to the investors how the investor funds would be used. Cuccomarino and
11 Montalto never fully disclosed to the investors what their compensation was. Cuccomarino and Montalto never fully
12 explained what role Italia Imports played in the investment opportunity and Cuccomarino and Montalto never provided
13 the investors risk factor disclosure or financial statements for the investment.

14 **III. Registration Status**

15 10. Neither Mario Cuccomarino nor Francesco Montalto is not currently registered as securities
16 salespersons, investment advisers or broker-dealers in the state of Washington and neither has previously been so
17 registered.

18 11. The olive oil investment opportunities are not currently registered with the state of Washington to sell
19 securities and the investment opportunities have not previously been so registered.

20 Based upon the foregoing Tentative Findings of Fact the following Conclusions of Law are made.

21 **CONCLUSIONS OF LAW**

22 **I. Securities**

23 11. The offer and/or sale of the investment opportunities described above constitutes the offer and/or sale of
24 a security as defined in RCW 21.20.005 (10) and (12).

25 **SUMMARY ORDER TO CEASE AND**
26 **DESIST**

1 II. Anti-Fraud Provision

2 12. The offer and/or sale of said securities was made in violation of RCW 21.20.010 because the
3 Respondents made misstatements of material fact or omitted to state material facts necessary in order to make the
4 statements made, in the light of the circumstances under which they were made, not misleading.

5 III. Registration of Securities

6 13. The offer and/or sale of said securities is in violation of RCW 21.20.140, the registration section of the
7 Securities Act, because no registration for such offer and/or sale is on file with the Securities Administrator of the state of
8 Washington.

9 IV. Registration of Broker-Dealer and Salespersons

10 14. Respondents, Mario Cuccomarino and Francesco Montalto have each violated RCW 21.20.040 by
11 offering and/or selling said securities while not being registered as a broker-dealer or securities salesperson in the state of
12 Washington.

13 **EMERGENCY**

14 The Securities Administration finds that an emergency exists and that the continued offers or sales of said
15 purported investment opportunities in violation of RCW 21.20.010, RCW 21.20.140, and RCW 21.20.040, constitute a
16 threat to the investing public. Accordingly, a Summary Order to Cease and Desist from those violations is in the public
17 interest and necessary for the protection of the investing public.

18 **SUMMARY ORDER**

19 Based upon the foregoing, IT IS THEREFORE HEREBY SUMMARILY ORDERED that Respondents, Mario
20 Cuccomarino, Francesco Montalto, their agents, and employees shall each cease and desist from violating RCW
21 21.20.010, the anti-fraud section of the Securities Act.

22 It is further SUMMARILY ORDERED that Respondents, Mario Cuccomarino, Francesco Montalto, their
23 agents, and employees shall each cease and desist from violating RCW 21.20.140, the securities registration section of
24 the Securities Act.

1 It is further SUMMARILY ORDERED that Respondents, Mario Cuccomarino, Francesco Montalto, their
2 agents, and employees shall each cease and desist from violating RCW 21.20.040, the securities broker-dealer,
3 securities salesperson registration section of the Securities Act.

4 **NOTICE OF INTENT TO IMPOSE FINES**

5 Pursuant to RCW 21.20.395, and based upon the above Tentative Findings of Fact and Conclusions of Law, the
6 Securities Administrator finds that respondent Mario Cuccomarino and Francesco Montalto have committed a knowing
7 or reckless violation of the Securities Act such that the imposition of a fine is required. Therefore, the Securities
8 Administrator intends to order that each respondent shall pay a fine in the amount of \$5,000 for each such violation.

9 **NOTICE OF INTENT TO ORDER AFFIRMATIVE RELIEF**

10 Pursuant to RCW 21.20.390, and based upon the above Tentative Finds of Fact and Conclusions of Law, the
11 Securities Administrator intends to order that respondents Mario Cuccomarino and Francesco Montalto shall be jointly
12 and severally liable for providing appropriate affirmative relief, including, without limitation, a requirement to provide
13 full restitution to investors.

14 **AUTHORITY AND PROCEDURE**

15 This Order is entered pursuant to the provisions of RCW 21.20.390, and is subject to the provisions of Chapter
16 34.05 RCW. The Respondents, Mario Cuccomarino and Francesco Montalto may each make a written request for a
17 hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
18 accompanying this Order. A request for a hearing should be in writing and sent to Deborah R. Bortner, Securities
19 Administrator, Department of Financial Institutions, P.O. Box 9033, Olympia, Washington 98507-9033.

20 If a respondent does not request a hearing, the Securities Administrator intends to adopt the above Tentative
21 Findings of Fact and Conclusions of Law as final and make the Summary Order to Cease and Desist permanent as to that
22 Respondent.

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25 **SUMMARY ORDER TO CEASE AND
26 DESIST**

1 **CONTINUING INVESTIGATION**

2 The Securities Division is continuing to investigate the practices of the Respondents, Mario Cuccomarino and
3 Francesco Montalto to determine the full extent of the violations of the Securities Act that have occurred in this matter.

4 WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

5 DATED this 13th day of September, 2002

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DEBORAH R. BORTNER
Securities Administrator

10 Approved by:

Presented by:

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13 _____
Michael E. Stevenson
Chief of Enforcement

14 _____
Tyler Letey
Staff Attorney

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25 SUMMARY ORDER TO CEASE AND
26 DESIST